IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

TUESDAY, THE 13TH MARCH 2007 / 22ND PHALGUNA 1928

WP(C).No. 16040 of 2006(H)

PETITIONER:

GIRISH KUMAR.K.V., SENIOR ACCOUNTANT,
PAYYANNUR KHADI CENTRE, PAYYANNUR,
KANNUR DISTRICT.

BY ADV. SRI.R.RAJASEKHARAN PILLAI
SMT.SABINA JAYAN
SRI.M.S.NISHAD

RESPONDENTS:
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1. **THE KERALA KHADI AND VILLAGE INDUSTRIES BOARD REPRESENTED BY ITS SECRETARY, THIRUVANANTHAPURAM.**

2. **THE DIRECTOR (ADMINISTRATION), KERALA KHADI AND VILLAGE INDUSTRIES BOARD, THIRUVANANTHAPURAM.**

BY ADV. SRI.K.P.HARISH,SC,KERALA KHADI BOARD for R1 & R2

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.16040/2006 H

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE PROMOTION ORDER DTD. 15/03/2006 OF THE PETITIONER.**

EXT.P1A: **COPY OF THE O.P.TICKET OF THE PETITIONER'S WIFE ISSUED BY THE HOSPITAL.**

EXT.P2: **COPY OF THE TRANSFER ORDER DTD. 15/06/2006 ISSUED BY THE 2ND RESPONDENT FOR AND ON BEHALF OF THE 1ST RESPONDENT.**

EXT.P3: **COPY OF THE TRANSFER NORMS DTD. 26/07/2000 ISSUED BY THE 1ST RESPONDENT.**

1ST RESPONDENT'S EXHIBITS:

EXT.R1(A): **COPY OF THE CIRCULAR NO.KB.374/5/E1(A) OF THE 1ST RESPONDENT.**

EXT.R1(B); **COPY OF THE LETTER DTD. 27/02/2006 SENT BY THE PETITIONER BY EXPRESSING HIS CANDIDATURE IN THE POST OF SENIOR ACCOUNTANT.**

/TRUE COPY/

KSS

K.K. DENESAN, J.

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W.P.(C) No.16040 OF 2006 H
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Dated this the 13th March, 2007

J U D G M E N T

The petitioner is working as Senior Accountant in the 1st respondent-Board. Challenge is to Ext. P2 order dated 15-6-2006 passed by the 2nd respondent-Director (Administration) of the 1st respondent-Board. As per Ext. P2, the petitioner, while working as Senior Accountant in the Payyannur Khadi Centre on working arrangement, has been transferred to and posted in the office of the Kerala Khadi and Village Industries Board, Thiruvananthapuram as Senior Accountant. This Court at the time of admission passed an order staying he operation of Ext. P2 as far as the petitioner is concerned. The order thus passed has been extended from time to time and it is in force even now.

2. Counsel for the respondents has brought up this matter to get the interim order vacated saying that the only post of Senior Accountant at Thiruvananthapuram is kept vacant for want of a competent person to work against that post.

3. Counsel for the petitioner submits that Ext. P2

is bad for the simple reason that the 2nd respondent has no authority to issue orders transferring and posting Senior Accountants in the 1st respondent's service. Learned counsel has invited my attention to the relevant regulation which says that the power to issue orders of transfers and postings is conferred on the Chairman and any other officer who may be authorised by the Chairman in that behalf. Regulation 27 of Kerala Khadi and Village Industries Board (Classification and Conditions of Recruitment of Staff) Regulations, 2006 is extracted for easy reading:

> "27. *Postings and transfers.*--(a) A member of a service or class or category of a service may be required to serve in any post borne on the cadre of such service or class.
>
> (b) All transfers and postings shall be made by the Chairman or any lower authority to which the Chairman may delegate such powers of transfers and postings."

4. Counsel has taken me through the averments made in the counter affidavit filed on behalf of the respondents. Paragraph 13, though says that the Secretary of the Board has got certain powers, and further, that the day-to-day and normal functions of the Board will be carried out by the Secretary of the

Board, it is no where stated that the 2nd respondent has been authorised by the Chairman to issue orders in the nature of Ext. P2.

5. The resultant position is that Ext. P2 is liable to be set aside as one passed by an incompetent authority. I therefore, quash Ext. P2 in so far as it concerns the petitioner.

6. This judgment will not stand in the way of the appropriate authority passing orders in accordance with the Regulations, if it is felt that transfers and postings as contemplated in Rule 27 of the Regulations are necessary.

Subject to the above observations, the writ petition is allowed.

K.K. DENESAN
JUDGE

jan/